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— REMARKS —

The present amendment replies to a Non-Final Office Action dated March 7, 2006. Claims 1, and 3-25 are pending in the present application. In the Non-Final Office Action, the Examiner rejected claims 1-20. The Applicants respectfully traverse the rejection with amendment and add claims 21-25 herein. Claim 2 has been cancelled. Claim 2 has been cancelled, not to avoid any reference, but to individually claim the Markush group elements from claim 2 in claims 21-23. Applicants maintain their claim to any and all equivalents of claim 2. The Applicants respond to each ground of rejection as subsequently recited herein and request reconsideration of the present application.

- A. Claims 13, 6-7, 9-11, and 14-17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,724,316 to *Brunts*.

The §102(b) rejection of claims 1-3, 6-7, 9-11, and 14-17 is traversed.

As an initial matter, Applicants note that they believe the Examiner intended to refer to reference US 5,742,316 to *Brunts* as opposed to US 5,424,316 as listed by the Examiner in the office action. In the event that the Applicants are mistaken, Applicants request a phone call to their counsel to clarify.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the . . . claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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The Applicants have thoroughly considered the Examiner's remarks concerning patentability of the claims over U.S. Patent No. 5,724,316 to *Brunts* (the *Brunts* patent). The Applicants have also thoroughly read the *Brunts* patent and traverse the rejection of claims 1-3, 6-7, 9-11, and 14-17. The Applicants respectfully assert that *Brunts* fails to include each and every element of the Applicants' invention as claimed, as required to maintain a rejection under 35 U.S.C. §102(b). *See* MPEP 2131. The Applicants assert that the *Brunts* patent fails to disclose, teach, or suggest:

storing the local UTC correction at the telematics device; and calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 1;

a means for storing the local UTC correction at the telematics device; and for calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 9; or

a computer readable medium and computer readable code for storing the local UTC correction at the telematics device; and calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 15.

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Brunts does not disclose or even suggest that the calculation of local time is based on a stored UTC correction value. At most, *Brunts* discloses updating the local time using a GPS signal that is based on a "database containing time zone information." See col. 2 lines 28-32 reproduced below:

More particularly, it is desirable to provide a system and method that employs global positioning system signals and a database containing time zone information and provides an accurate current time reading which automatically updates the time reading to adjust for time zone changes.

However, *Brunts* does not disclose that the time zone information includes a UTC correction, and therefore, *Brunts* does not disclose that a UTC correction is stored. Since *Brunts* does not teach or suggest storing a local UTC correction as claimed, *Brunts* simply cannot support a § 102(b) rejection.

In addition, claims 1, 9, and 15 require a telematics device. *Brunts* does not disclose such a device, and the Examiner provides no evidence that one of ordinary skill in the art would confuse the *Brunts* GPS devices 70, 72 (see Fig 2) with the telematics device claimed and described by the Applicants. Without evidence that one of ordinary skill in the art would equate the GPS device of *Brunts* with the claimed telematics device, the rejection must fail.

Claims 3; claims 6 and 7; and claims 14, 16 and 17 depend directly or indirectly on independent claims 1, 9, and 15, respectively. Therefore, the dependent claims include all the elements and limitations of their respective independent claims. The Applicants respectfully submit that dependent claims 3, 6, 7, 14, 16 and 17 are allowable over the *Brunts* patent for at least the same reasons as set forth above with respect to their respective independent claims.

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In addition, the method of claim 7 requires scheduling mobile vehicle communication system activities based on the local time. The Examiner's reliance on his claim construction is misplaced. The Examiner premises this rejection on an allegation that:

7. With respect to claim 7 *Brunts* discloses the method of claim 1 further comprising scheduling mobile vehicle communication system activities based on the local time. (The communication between the GPS antenna, 72 figure 1, and the GPS satellite would only commence when the vehicle is on. Vehicle operation necessarily takes into account local time. The vehicle would only operate when being operated by a driver which is subject to a local schedule.)

The Examiner's allegation that "vehicle operation necessarily takes into account local time" is clearly erroneous. Any such speculation about when a user will use his vehicle is just that – speculation. Those of ordinary skill in the art recognize that vehicles are operated 24 hours a day, 7 days a week, 365 days per year, including holidays. Further, one of ordinary skill in the art would recognize that each individual operates his vehicle according to his own needs and whims, not "subject to a local schedule." The Examiner's allegation that "GPS satellite would only commence when the vehicle is on" teaches "scheduling mobile vehicle communication system activities based on the local time" is completely contrary to *Brunts*' teaching which does not even suggest scheduling the GPS device.

Should the Examiner maintain the rejection of dependent claims 7 and 8, the Applicants respectfully request that the Examiner point out where each and every element of the Applicants' invention as claimed is found in *Brunts* as required to maintain a rejection under 35 U.S.C. §102(b). The present Non-Final Office Action failed point out where each of the individual elements are disclosed in the *Brunts* patent.

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Withdrawal of the rejection of claims 1-3, 6-7, 9-11, and 14-17 under 35 U.S.C. §102(b) is respectfully requested.

B. Claims 4-5, 12-13, and 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,724,316 to *Brunts* in view of U.S. Patent No. 6,963,588 to *Lynch*.

The §103(a) rejection of claims 4-5, 12-13, and 18-19 is traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references when combined must teach or suggest all the claim limitations. See MPEP 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.). See also *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992) (flexible landscape edging device which is conformable to a ground surface of varying slope not suggested by combination of prior art references). See, MPEP §2143.01. The Applicant respectfully asserts that there is no suggestion or motivation to combine the teachings of the *Brunts* patent with the *Lynch* patent.

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As the Examiner correctly found, *Brunts* fails to teach that "the time zone reference signal is a CDMA signal including a CDMA local time correction and the determining a local UTC correction from the time zone reference signal comprises setting the UTC correction equal to the CDMA local time correction." For this the Examiner relies on *Lynch*. However, the Examiner's reliance on *Lynch* is misplaced. There is no suggestion or motivation to combine *Lynch* with *Brunts*. The Examiner alleges that it is obvious to one skilled in the art to use a CDMA signal as a time zone reference signal with the GPS receiver in *Brunts*' invention, yet the Examiner has not provided a reference where a GPS receiver can receive a CDMA signal. The combination of receiving a CDMA signal with a GPS receiver is not stated in the references themselves. There is no evidence that the GPS receiver 70 fig 2 in *Brunts* is designed to receive a CDMA signal, and one of ordinary skill in the art would not reasonable expect that a GPS receiver would successfully receive a CDMA signal. Therefore, it is not obvious to one skilled in the art to use a CDMA signal as a time zone reference signal with the GPS receiver in *Brunts*' invention. The reception of a CDMA signal requires a mobile phone system such as a telematics device 120 fig 1. The Examiner's reliance on *Lynch* is misplaced because *Brunts* would have to change the whole system in order to be able to receive a CDMA signal, suggesting that a combination of the references would not only be unmotivated but undesirable.

The Applicant further asserts that *Brunts* alone or in combination with *Lynch* fails to teach or suggest all the claim limitations of claims 4-5, 12-13, and 18-19. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See MPEP 2143.03. Claims 4-5, 12-13, and 18-19 depend directly from independent claims 1, 9, and 15, respectively, and so include all the elements and limitations of their respective independent claims. As discussed in Section A above, the *Brunts* patent fails to teach or suggest storing the local UTC correction at the telematics device; and

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calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 1; or a means for storing the local UTC correction at the telematics device; and calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 9; or a computer readable medium for storing the local UTC correction at the telematics device; and calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claim 15. Lynch fails to cure these defects. The Applicants therefore respectfully submit that dependent claims 4-5, 12-13, and 18-19 are allowable over the *Brunts* for at least the same reasons as set forth above with respect to their respective independent claims. Furthermore, where an independent claim is non-obvious any claim depending therefrom is also non-obvious.

Withdrawal of the rejection of claims 4-5, 12-13, and 18-19 under 35 U.S.C. §103(a) is respectfully requested.

C. Claims 7, 8, 14, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,724,316 to *Brunts* in view of U.S. Patent No. 2002/0059075 to *Schick*.

The Applicant respectfully traverses this obviousness rejection of claims 7, 8, 14, and 20 because *Brunts* does not disclose, teach, or suggest storing the local UTC correction at the telematics device; and calculating local time from the stored local UTC correction and the GPS signal, as recited in independent claims 1, 9, and 15 respectively. *Schick* does not cure these defects. Therefore, the rejection fails.

A basic consideration which applies to obviousness rejections is that the reference must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. "It is difficult but necessary that the decisionmaker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made (often as here many years), to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the

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then-accepted wisdom in the art." *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). The Examiner alleges in paragraph 43 that Schick teaches "downloading said data during times of ideal data link availability," yet it is the claimed invention that teaches "scheduling mobile vehicle communication system activities based on local time." See claim 7. The Examiner allegations of obviousness are based on impermissible hindsight. See MPEP §2142.

Claim 7 depends on independent claim 1. Therefore, dependent claim 7 includes all of the elements and limitations of independent claim 1. It is therefore respectfully submitted by the Applicant that dependent claim 7 is allowable over *Brunts* for at least the same reason as set forth with respect to independent claim 1 being allowable over *Brunts*. Withdrawal of the rejection of dependent claim 7 under 35 U.S.C. §103(a) as being unpatentable over *Brunts* in view of *Schick* is therefore respectfully requested. Claim 8 depends on dependent claim 7. Therefore, dependent claim 8 includes all of the elements and limitations of dependent claim 7. It is therefore respectfully submitted by the Applicant that dependent claim 8 is allowable over *Brunts* for at least the same reason as set forth with respect to dependent claim 7 being allowable over *Brunts*. Withdrawal of the rejection of dependent claim 8 under 35 U.S.C. §103(a) as being unpatentable over *Brunts* in view of *Schick* is therefore respectfully requested.

Claim 14 depends on dependent claim 9. Therefore, dependent claim 14 includes all of the elements and limitations of independent claim 9. It is therefore respectfully submitted by the Applicant that dependent claim 14 is allowable over *Brunts* for at least the same reason as set forth with respect to independent claim 9 being allowable over *Brunts*. Withdrawal of the rejection of dependent claim 14 under 35 U.S.C. §103(a) as being unpatentable over *Brunts* in view of *Schick* is therefore respectfully requested.

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Claim 20 depends from independent claim 15. Therefore, dependent claim 20 includes all of the elements and limitations of independent claim 15. It is therefore respectfully submitted by the Applicant that dependent claims 20 is allowable over *Brunts* for at least the same reason as set forth with respect to independent claim 15 being allowable over *Brunts*. Withdrawal of the rejection of dependent claim 20 under 35 U.S.C. §103(a) as being unpatentable over *Brunts* in view of *Schick* is therefore respectfully requested.

D. Claims 21-25 have been added herein.

Claims 21-25 have been added herein to more particularly point out and distinctly claim the Applicants' invention. Claims 21-25 all depend from independent claim 1 and include all the elements of that claim and are therefore allowable for at least the same reasons stated above. *Brunts* alone or in combination with *Lynch* or *Schick* do not teach any of the recited claims. No new matter has been added in the new claims.

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-SUMMARY-

Reconsideration of the rejection of claims 1 and 3-20; and consideration of new claims 21-25 is requested in light of the remarks herein. The Applicants submit that claims 1 and 3-25 as set forth fully satisfy the requirements of 35 U.S.C. §§ 102 and 103. In view of foregoing remarks, favorable consideration and early passage to issue of the present application are respectfully requested.

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Respectfully submitted,
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